

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JONATHON WAYNE EARTH, JR.,

Defendant.

8:12CR382

ORDER

Defendant Jonathan Wayne Earth, Jr. (Earth), appeared before the court on March 9, 2015, on the Amended Petition for Warrant or Summons for Offender Under Supervision (Petition) (Filing No. 42). Earth was represented by Assistant Federal Public Defender Kelly M. Steenbock and the United States was represented by Assistant U.S. Attorney Douglas R. Semisch. Through his counsel, Earth waived his right to a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Petition alleges probable cause and Earth should be held to answer for a final dispositional hearing before Senior Judge Joseph F. Bataillon.

The government moved for detention. Earth presented no evidence but requested release so he could again participate in treatment at the Drug Dependence Unit in Winnebago, Nebraska, and asserted he would clear the warrant issued in Sioux City, Iowa. Since it is Earth's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Earth has failed to carry his burden and that Earth should be detained pending a dispositional hearing before Senior Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Senior Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 2:30 p.m. on May 1, 2015**. Defendant must be present in person.

2. Defendant Jonathon Wayne Earth, Jr., is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 9th day of March, 2015.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge